

**U.S. District Court**  
**Southern District of New York (Foley Square)**  
**CIVIL DOCKET FOR CASE #: 1:12-cv-05800-AJP**

Walz et al v. 44& X incorporated as 10th Avenue Group Inc. et al  
Assigned to: Magistrate Judge Andrew J. Peck  
Cause: 15:2(a) Fair Labor Standards Act

Date Filed: 07/27/2012  
Jury Demand: Plaintiff  
Nature of Suit: 710 Labor: Fair Standards  
Jurisdiction: Federal Question

**Plaintiff**

**Tyler Walz**  
*Each Individually And on Behalf Of All  
Other Persons Similarly Situated*

represented by **Peter J. Andrews**  
The Harman Firm PC  
200 West 57th Street  
Suite 900  
New York, NY 10123  
(212) 425-2600  
Fax: (212) 202-3926  
Email: pandrews@theharmanfirm.com  
**ATTORNEY TO BE NOTICED**

**Walker Green Harman , Jr.**  
The Harman Firm PC  
200 West 57th Street  
New York, NY 10123  
(212) 425-2600  
Fax: (212) 202-3926  
Email: wharman@theharmanfirm.com  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Stephen Stacey**  
*Each Individually and On Behalf Of All  
Other Persons Similarly Situated*  
also known as  
Steve Stacey

represented by **Peter J. Andrews**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Walker Green Harman , Jr.**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

**Plaintiff**

**Mr. Forrest Bayless**  
TERMINATED: 06/06/2013

represented by **Walker Green Harman , Jr.**  
(See above for address)  
**LEAD ATTORNEY**

**Peter J. Andrews**  
(See above for address)  
**ATTORNEY TO BE NOTICED**

Plaintiff

**Mr. Marcus Calderon**

represented by **Walker Green Harman , Jr.**  
(See above for address)  
*LEAD ATTORNEY*

**Peter J. Andrews**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

Plaintiff

**Daniel a/k/a Danny Marr**

represented by **Walker Green Harman , Jr.**  
(See above for address)  
*LEAD ATTORNEY*

**Peter J. Andrews**  
(See above for address)  
*ATTORNEY TO BE NOTICED*

Plaintiff

**S. Reece Scelfo**

represented by **Walker Green Harman , Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Plaintiff

**John Garrie Hoffman**

represented by **Walker Green Harman , Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

Plaintiff

**Kameron Ackerman**

represented by **Walker Green Harman , Jr.**  
(See above for address)  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

V.

Defendant

**44& X incorporated as 10th Avenue  
Group Inc.**

represented by **Felice B. Ekelman**  
Jackson Lewis LLP (NY)  
666 Third Avenue  
29th Floor  
New York, NY 10017  
212-545-4005  
Fax: 212-972-3213  
Email: ekelmanf@jacksonlewis.com  
*LEAD ATTORNEY*  
*ATTORNEY TO BE NOTICED*

**Joanna Suzan Smith**  
 Jackson Lewis LLP (NY)  
 666 Third Avenue  
 29th Floor  
 New York, NY 10017  
 (212)-545-4000  
 Fax: (212)-972-3213  
 Email: joanna.smith@jacksonlewis.com  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Scott Hart**  
*Individually*

represented by **Felice B. Ekelman**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Joanna Suzan Smith**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

**Defendant**

**Bruce Horowytz**  
*Individually*  
*also known as*  
 Bruce Horowitz

represented by **Felice B. Ekelman**  
 (See above for address)  
**LEAD ATTORNEY**  
**ATTORNEY TO BE NOTICED**

**Joanna Suzan Smith**  
 (See above for address)  
**ATTORNEY TO BE NOTICED**

Date Filed	#	Docket Text
07/27/2012	 1	COMPLAINT against 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Filing Fee \$ 350.00, Receipt Number 46501044917) Document filed by Tyler Walz, Stephen Stacey.(js) (ago). (Entered: 08/03/2012)
07/27/2012		SUMMONS ISSUED as to 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (js) (Entered: 08/03/2012)
07/27/2012		Magistrate Judge Andrew J. Peck is so designated. (js) (Entered: 08/03/2012)
07/27/2012		Case Designated ECF. (js) (Entered: 08/03/2012)
07/27/2012	 2	STANDING ORDER IN RE PILOT PROJECT REGARDING CASE MANAGEMENT TECHNIQUES FOR COMPLEX CIVIL CASES IN THE SOUTHERN DISTRICT OF NEW YORK (See M-10-468 Order filed November 1, 2011). This case is hereby designated for inclusion in the Pilot Project Regarding Case Management Techniques for Complex Civil Cases in the Southern District of New York (the Pilot Project), unless the judge to whom this

		case is assigned determines otherwise. This case is designated for inclusion in the Pilot Project because it is a class action, an MDL action, or is in one of the following Nature of Suit categories: 160, 245, 315, 355, 365, 385, 410, 830, 840, 850, 893, or 950. The presiding judge in a case that does not otherwise qualify for inclusion in the Pilot Project may nevertheless designate the case for inclusion in the Pilot Project by issuing an order directing that the case be included in the Pilot Project. The description of the Pilot Project, including procedures to be followed, is attached to this Order. (Signed by Judge Loretta A. Preska on 10/31/2012) (js) (Entered: 08/03/2012)
08/08/2012	<a href="#"> 3</a>	ORDER SCHEDULING AN INITIAL PRETRIAL CONFERENCE: Initial Conference set for 10/5/2012 at 09:30 AM in Courtroom 14C, U.S. Courthouse, 500 Pearl Street, New York, NY 10007 before Judge Colleen McMahon, and as further set forth. (Signed by Judge Colleen McMahon on 7/27/2012) (rjm) (Entered: 08/08/2012)
08/08/2012	<a href="#"> 4</a>	AFFIDAVIT OF SERVICE of Summons and Complaint. Scott Hart served on 7/27/2012, answer due 8/17/2012. Service was accepted by Defendant Scott Hart. Document filed by Tyler Walz; Stephen Stacey. (Harman, Walker) (Entered: 08/08/2012)
08/08/2012	<a href="#"> 5</a>	AFFIDAVIT OF SERVICE of Summons and Complaint. 44& X incorporated as 10th Avenue Group Inc. served on 7/27/2012, answer due 8/17/2012. Service was accepted by Defendant Scott Hart. Document filed by Tyler Walz; Stephen Stacey. (Harman, Walker) (Entered: 08/08/2012)
08/13/2012	<a href="#"> 6</a>	NOTICE OF APPEARANCE by Felice B. Ekelman on behalf of 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz (Ekelman, Felice) (Entered: 08/13/2012)
08/13/2012	<a href="#"> 7</a>	NOTICE OF APPEARANCE by Joanna Suzan Smith on behalf of 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz (Smith, Joanna) (Entered: 08/13/2012)
08/17/2012	<a href="#"> 8</a>	RULE 7.1 CORPORATE DISCLOSURE STATEMENT. No Corporate Parent. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz.(Ekelman, Felice) (Entered: 08/17/2012)
08/17/2012	<a href="#"> 9</a>	MOTION to Dismiss. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz.(Ekelman, Felice) (Entered: 08/17/2012)
08/17/2012	<a href="#"> 10</a>	MEMORANDUM OF LAW in Support re: <a href="#">9</a> MOTION to Dismiss.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Ekelman, Felice) (Entered: 08/17/2012)
08/17/2012	<a href="#"> 11</a>	DECLARATION of FELICE B. EKELMAN, ESQ. in Support re: <a href="#">9</a> MOTION to Dismiss.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D)(Ekelman, Felice) (Entered: 08/17/2012)
08/22/2012	<a href="#"> 12</a>	AFFIDAVIT OF SERVICE of Summons and Complaint. Bruce Horowytz served on 8/22/2012, answer due 9/12/2012. Service was accepted by Scott Hart. Document filed by Tyler Walz; Stephen Stacey. (Harman, Walker) (Entered: 08/22/2012)

08/23/2012	 <a href="#">13</a>	NOTICE OF APPEARANCE by Peter J. Andrews on behalf of Stephen Stacey, Tyler Walz (Andrews, Peter) (Entered: 08/23/2012)
09/07/2012	 <a href="#">14</a>	DECLARATION of Peter J. Andrews in Opposition re: <a href="#">9</a> MOTION to Dismiss.. Document filed by Stephen Stacey, Tyler Walz. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G, # <a href="#">8</a> Exhibit H, # <a href="#">9</a> Exhibit I, # <a href="#">10</a> Exhibit J, # <a href="#">11</a> Exhibit K, # <a href="#">12</a> Exhibit L, # <a href="#">13</a> Exhibit M, # <a href="#">14</a> Exhibit N, # <a href="#">15</a> Exhibit O)(Andrews, Peter) (Entered: 09/07/2012)
09/07/2012	 <a href="#">15</a>	MEMORANDUM OF LAW in Opposition re: <a href="#">9</a> MOTION to Dismiss. <i>Plaintiffs' Complaint.</i> Document filed by Stephen Stacey, Tyler Walz. (Andrews, Peter) (Entered: 09/07/2012)
09/10/2012	 <a href="#">16</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Felice B. Ekelman dated 9/7/2012 re: Defendants respectfully submit the attached proposed discovery plan for the Court's consideration and respectfully request that it be adopted as the Civil Case Management Plan governing the case. ENDORSEMENT: You have to come in for your scheduled conference and I will set the plan. (Signed by Judge Colleen McMahon on 9/10/2012) (lmb) (Entered: 09/10/2012)
09/12/2012	 <a href="#">17</a>	MOTION to Dismiss <i>Complaint in Part.</i> Document filed by Bruce Horowytz. (Ekelman, Felice) (Entered: 09/12/2012)
09/12/2012	 <a href="#">18</a>	MEMORANDUM OF LAW in Support re: <a href="#">17</a> MOTION to Dismiss <i>Complaint in Part..</i> Document filed by Bruce Horowytz. (Ekelman, Felice) (Entered: 09/12/2012)
09/12/2012	 <a href="#">19</a>	DECLARATION of FELICE B. EKELMAN, ESQ. in Support re: <a href="#">17</a> MOTION to Dismiss <i>Complaint in Part..</i> Document filed by Bruce Horowytz. (Attachments: # <a href="#">1</a> A, # <a href="#">2</a> B, # <a href="#">3</a> C, # <a href="#">4</a> D)(Ekelman, Felice) (Entered: 09/12/2012)
09/13/2012	 <a href="#">20</a>	ENDORSED LETTER addressed to Judge Colleen McMahon, from Peter J. Andrews, dated 9/10/2012, re: the joint Civil Case Management Plan. We further understand that Your Honor has advised the parties that the Court will set the plan at the Initial Pretrial Conference currently set for Friday, October 5, 2012 at 9:30 a.m. I wanted to advise Your Honor that our differences with the Defendants appear to be minor. We did try to work together to develop a joint submission. However, the Defendants would not consent to our proposal that two specific deadlines be extended from those that the Defendants initially proposed. Specifically, we would like the deadline for joining additional parties to be extended to October 31, 2012. See additional deadline requests as further set forth herein. ENDORSEMENT: Just come for a conference. I will not negotiate this by letter. (Signed by Judge Colleen McMahon on 9/12/2012) (ja) (Entered: 09/13/2012)
09/14/2012	 <a href="#">21</a>	MEMORANDUM OF LAW in Support re: <a href="#">9</a> MOTION to Dismiss.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart. (Ekelman, Felice) (Entered: 09/14/2012)
09/28/2012	 <a href="#">22</a>	MEMORANDUM OF LAW in Opposition re: <a href="#">17</a> MOTION to Dismiss <i>Complaint in Part..</i> Document filed by Stephen Stacey, Tyler Walz. (Andrews,

		Peter) (Entered: 09/28/2012)
10/01/2012	 <a href="#">23</a>	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE FLSA. Document filed by Forrest Bayless.(Harman, Walker) (Entered: 10/01/2012)
10/02/2012	 <a href="#">24</a>	AMENDED CALENDAR NOTICE: Please take notice that the above captioned matter has been re-scheduled for a: Rule (16) conference to Friday, November 2, 2012 at 11:45 A.M. before the Honorable Colleen McMahon, United States District Judge in Courtroom 14C, U. S. District Court, 500 Pearl Street, New York, New York 10007. Any scheduling difficulties must be brought to the attention of the Court in writing and faxed to Chambers at (212) 805-6326. Initial Conference set for 11/2/2012 at 11:45 AM in Courtroom 14C, 500 Pearl Street, New York, NY 10007 before Judge Colleen McMahon. (Signed by Judge Colleen McMahon on 10/2/2012) (ja) (Entered: 10/02/2012)
10/03/2012	 <a href="#">25</a>	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE FLSA. Document filed by Marcus Calderon.(Harman, Walker) (Entered: 10/03/2012)
10/17/2012	 <a href="#">26</a>	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE FLSA. Document filed by Daniel a/k/a Danny Marr.(Harman, Walker) (Entered: 10/17/2012)
11/05/2012	 <a href="#">27</a>	AMENDED CALENDAR NOTICE: Please take notice that the above captioned matter has been re-scheduled for a: Rule (16) Conference to Friday, November 30, 2012 at 9:45A.M. before the Honorable Colleen McMahon, United States District Judge in Courtroom 14C, U.S. District Court, 500 Pearl Street, New York, New York 10007. ( Initial Conference set for 11/30/2012 at 09:45 AM in Courtroom 14C, 500 Pearl Street, New York, NY 10007 before Judge Colleen McMahon.) (Signed by Judge Colleen McMahon on 11/5/2012) (mro) (Entered: 11/07/2012)
11/07/2012	 <a href="#">28</a>	ORDER granting <a href="#">9</a> Motion to Dismiss; granting <a href="#">17</a> Motion to Dismiss. For the reasons stated herein, Defendants' motion to dismiss Plaintiffs' complaint in part is GRANTED, and Plaintiffs' complaint is DISMISSED IN PART without prejudice and with leave to amend. Plaintiffs must follow the usual course of filing a motion for leave to amend, attaching the proposed amended complaint, if they wish to have this option considered. If they are unable to bolster significantly their allegations, amendment will be deemed futile, and I will dismiss the complaint in part with prejudice. Plaintiffs must file their amended complaint no later than 14 days from the date of this order. When Plaintiffs file their amended complaint (if they do), they should serve a motion for conditional certification of an opt-in class under FLSA § 216(b). In the motion, Plaintiffs must specifically identify the particulars of the class they seek to certify conditionally. This case has languished as a result of this motion to dismiss. Because the FLSA claim is an opt-in, rather than opt-out, class, the statute of limitations is running every day. Accordingly, Defendants must respond to that motion within 14 days. The Clerk is directed to remove the motions at ECF Nos. 9 and 17 from the Court's list of open motions. (Signed by Judge Colleen McMahon on 11/7/2012) (mro) (Entered: 11/07/2012)
11/09/2012	 <a href="#">29</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Felice B. Ekelman dated 11/7/12 re: Counsel writes to request that the Rule 16 conference scheduled for 11/30/12 be adjourned and rescheduled for a different date. ENDORSEMENT: Conference re-scheduled to 12/14/12 @ 10:00 a.m. ( Initial

		Conference set for 12/14/2012 at 10:00 AM before Judge Colleen McMahon.) (Signed by Judge Colleen McMahon on 11/9/2012) (mro) (Entered: 11/09/2012)
11/21/2012	 <a href="#">30</a>	MOTION to Amend/Correct <a href="#">1</a> Complaint. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) (Entered: 11/21/2012)
11/21/2012	 <a href="#">31</a>	DECLARATION of Peter J. Andrews in Support re: <a href="#">30</a> MOTION to Amend/Correct <a href="#">1</a> Complaint.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Attachments: # <a href="#">1</a> Exhibit A (Proposed Amended Complaint))(Andrews, Peter) (Entered: 11/21/2012)
11/21/2012	 <a href="#">32</a>	MEMORANDUM OF LAW in Support re: <a href="#">30</a> MOTION to Amend/Correct <a href="#">1</a> Complaint.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) (Entered: 11/21/2012)
11/21/2012	 <a href="#">33</a>	MOTION to Certify Class. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz.(Andrews, Peter) (Entered: 11/21/2012)
11/21/2012	 <a href="#">34</a>	DECLARATION of Peter J. Andrews in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Attachments: # <a href="#">1</a> Exhibit A (Proposed Collective Action Notice))(Andrews, Peter) (Entered: 11/21/2012)
11/21/2012	 <a href="#">35</a>	<b>FILING ERROR - DEFICIENT DOCKET ENTRY - AFFIDAVIT</b> of Stephen Stacy in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) Modified on 11/26/2012 (ldi). (Entered: 11/21/2012)
11/21/2012	 <a href="#">36</a>	<b>FILING ERROR - DEFICIENT DOCKET ENTRY - AFFIDAVIT</b> of Tyler Walz in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) Modified on 11/26/2012 (ldi). (Entered: 11/21/2012)
11/21/2012	 <a href="#">37</a>	<b>FILING ERROR - DEFICIENT DOCKET ENTRY - AFFIDAVIT</b> of Marcus Calderon in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) Modified on 11/26/2012 (ldi). (Entered: 11/21/2012)
11/21/2012	 <a href="#">38</a>	MEMORANDUM OF LAW in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) (Entered: 11/21/2012)
11/21/2012		<b>***NOTE TO ATTORNEY TO RE-FILE DOCUMENT - DEFICIENT DOCKET ENTRY ERROR.</b> Note to Attorney Peter J. Andrews to RE-FILE Document <a href="#">35</a> Affidavit in Support of Motion, <a href="#">36</a> Affidavit in Support of Motion, <a href="#">37</a> Affidavit in Support of Motion. <b>ERROR(S): No case number indicated on documents. (ldi)</b> (Entered: 11/26/2012)
11/26/2012	 <a href="#">39</a>	AFFIDAVIT of Marcus Calderon in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Harman, Walker) (Entered: 11/26/2012)

11/26/2012	 <a href="#">40</a>	AFFIDAVIT of Stephen Stacy in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Harman, Walker) (Entered: 11/26/2012)
11/26/2012	 <a href="#">41</a>	AFFIDAVIT of Tyler Walz in Support re: <a href="#">33</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Harman, Walker) (Entered: 11/26/2012)
11/28/2012	 <a href="#">42</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Peter J. Andrews dated 11/27/2012 re: We are writing with respect to the pending Motion for Preliminary Collective Action Certification. We filed the Motion on Wednesday, November 21, 2012. As per the Court's November 7, 2012 Order, Defendants have fourteen (14) days to respond that Motion, ie, until Wednesday, December 5, 2012. We seek the Court's guidance as to the date on which Plaintiffs' Reply to Defendants' Opposition will be due. We respectfully suggest Plaintiffs' Reply be due seven (7) days after Defendants have filed their Opposition. ENDORSEMENT: Ok. (Signed by Judge Colleen McMahon on 11/28/2012) (lmb) (Entered: 11/28/2012)
12/05/2012	 <a href="#">43</a>	MEMORANDUM OF LAW in Opposition re: <a href="#">30</a> MOTION to Amend/Correct <a href="#">1</a> Complaint.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Ekelman, Felice) (Entered: 12/05/2012)
12/05/2012	 <a href="#">44</a>	MEMORANDUM OF LAW in Opposition re: <a href="#">33</a> MOTION to Certify Class.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Ekelman, Felice) (Entered: 12/05/2012)
12/05/2012	 <a href="#">45</a>	AFFIRMATION of FELICE B. EKELMAN, ESQ. in Opposition re: <a href="#">33</a> MOTION to Certify Class.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Attachments: # <a href="#">1</a> A, # <a href="#">2</a> B, # <a href="#">3</a> C, # <a href="#">4</a> D)(Ekelman, Felice) (Entered: 12/05/2012)
12/11/2012	 <a href="#">46</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Peter J. Andrews dated 12/10/2012 re: Request for a one week extension of time to reply to two sets of opposition papers which were served on my firm only last week, on Wednesday December 5, 2012. ENDORSEMENT: OK. ( Reply due by 12/19/2012.) (Signed by Judge Colleen McMahon on 12/10/2012) (cd) (Entered: 12/11/2012)
12/14/2012		Minute Entry for proceedings held before Judge Colleen McMahon: Initial Pretrial Conference held on 12/14/2012. Decision: Initial conference held. See order for rulings and case management schedule. (Submitted By Vesna Cuk). (Court Reporter Rose Prater). (mde) (Entered: 12/14/2012)
12/14/2012		Set/Reset Deadlines: Discovery due by 5/31/2013. (ft) (Entered: 12/14/2012)
12/14/2012	 <a href="#">48</a>	ORDER granting <a href="#">33</a> Motion to Certify Class. Plaintiffs motion for conditional class certification under the Federal Labor Standards Act ("FLSA"), 29 U.S.C. § 216(b), is GRANTED. Notice shall be sent to all putative class members who were employed during the last three years (as permitted under the FLSA). There will be a sixty day opt-in period. The proposed notice submitted by Defendants is approved with the changes announced at the conference, which can be found in the transcript. Defendants' request that notice be disseminated by a third party administrator, or that, in the alternative, Defendants themselves disseminate the

		notice, is denied. By the end of today, December 14, 2012, Defendants are to produce to Plaintiff the list of current and former employees who are to receive notice. The notice shall be sent out by January 4, 2013, and the sixty day opt-in period will end on March 5, 2013. Plaintiff's counsel has indicated that he will wait until after the sixty day opt-in period to determine whether to proceed with a Rule 23 motion for class certification of the New York law claims. That is fine. In the meantime, merits discovery shall continue and all discovery must be completed by May 31, 2013. All discovery disputes will be handled by Magistrate Judge Andrew J. Peck. (Signed by Judge Colleen McMahon on 12/14/2012) (tro) (Entered: 01/02/2013)
12/14/2012	 <a href="#">46</a>	Set/Reset Deadlines: Discovery due by 5/31/2013. (tro) (Entered: 01/02/2013)
12/19/2012	 <a href="#">47</a>	REPLY MEMORANDUM OF LAW in Support re: <a href="#">30</a> MOTION to Amend/Correct <a href="#">1</a> Complaint.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Andrews, Peter) (Entered: 12/19/2012)
01/03/2013	 <a href="#">49</a>	TRANSCRIPT of Proceedings re: CONFERENCE held on 12/14/2012 before Judge Colleen McMahon. Court Reporter/Transcriber: Rose Prater, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 1/28/2013. Redacted Transcript Deadline set for 2/7/2013. Release of Transcript Restriction set for 4/8/2013.(Rodriguez, Somari) (Entered: 01/03/2013)
01/03/2013	 <a href="#">50</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 12/14/12 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 01/03/2013)
01/03/2013	 <a href="#">51</a>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Specific Non-Dispositive Motion/Dispute. Discovery Disputes. Referred to Magistrate Judge Andrew J. Peck. (Signed by Judge Colleen McMahon on 1/3/2013) (rjm) (Entered: 01/03/2013)
01/03/2013	 <a href="#">52</a>	ORDER SCHEDULING DISCOVERY CONFERENCE: that a conference is scheduled for January 7, 2013 at 3:30p.m. before the undersigned in Courtroom 20D (500 Pearl Street). Additional relief as set forth in this Order. ( Status Conference set for 1/7/2013 at 03:30 PM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck.) (Signed by Magistrate Judge Andrew J. Peck on 1/3/2013) Copies Sent By ECF. (pl) (Entered: 01/03/2013)
01/07/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 1/7/2013. Plaintiff's subpoena to ADP quashed-see transcript. Plaintiff cannot take discovery as if this is a class action until a class is certified. Discovery is limited to named plaintiffs, any opt-ins and facts to move to bring

		class cert. motion. Status Conference set for 2/14/2013 at 09:30 AM before Magistrate Judge Andrew J. Peck. (mro) (Entered: 01/14/2013)
01/22/2013	 <a href="#">53</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Peter J. Andrew dated 1/22/2013 re: We represent the Plaintiffs in this wage and hour litigation arising out of events at a restaurant in midtown Manhattan and we are writing in regards to the Collective Action Notice that the Court has authorized Plaintiffs to disseminate. ENDORSEMENT: The court does not send emails. A "third party" is someone YOU retain in order to do this. Do you plan to retain a third party servicer? (Signed by Judge Colleen McMahon on 1/22/2013) (djc) Modified on 1/24/2013 (djc). (Entered: 01/22/2013)
01/23/2013	 <a href="#">54</a>	TRANSCRIPT of Proceedings re: CONFERENCE held on 1/7/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Carol Ganley, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 2/19/2013. Redacted Transcript Deadline set for 2/28/2013. Release of Transcript Restriction set for 4/26/2013.(Rodriguez, Somari) (Entered: 01/23/2013)
01/23/2013	 <a href="#">55</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 1/7/2013 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 01/23/2013)
01/24/2013	 <a href="#">56</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Peter J. Andrews dated 01/22/2013 re: We represent the Plaintiffs in the above-referenced matter and write in response to the Court's endorsement earlier today. Plaintiff's position is that emails should be sent to the potential Plaintiffs by the undersigned counsel. However, if the Court elects to order the usage of a third part administrator, Plaintiffs will gladly retain a third party servicer. ENDORSEMENT: Retain a Third party provider and send email. (Signed by Judge Colleen McMahon on 01/23/2013) (jcs) (Entered: 01/24/2013)
02/08/2013	 <a href="#">57</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Walker G. Harman, Jr. dated 2/7/2013 re: Request for a premotion conference. ENDORSEMENT: The parties are to agree by 2/13 on a date for Ms. Lavigne's deposition. If they do not do so, the Court at the 2/14 conference will set a date, which might not be convenient for any or all of the parties. (Signed by Magistrate Judge Andrew J. Peck on 2/8/2013) Copies Sent By ECF By Chambers(cd) (Entered: 02/08/2013)
02/14/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Status Conference held on 2/14/2013. (Status Conference set for 3/14/2013 at 10:30 AM before Magistrate Judge Andrew J. Peck.) (ft) (Entered: 02/25/2013)
02/18/2013	 <a href="#">58</a>	MOTION to Certify Class. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz.(Harman, Walker) (Entered: 02/18/2013)

02/18/2013	 <a href="#">59</a>	MEMORANDUM OF LAW in Support re: <a href="#">58</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Harman, Walker) (Entered: 02/18/2013)
02/18/2013	 <a href="#">60</a>	DECLARATION of Walker G. Harman, Jr. in Support re: <a href="#">58</a> MOTION to Certify Class.. Document filed by Forrest Bayless, Marcus Calderon, Daniel a/k/a Danny Marr, Stephen Stacey, Tyler Walz. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G, # <a href="#">8</a> Exhibit H, # <a href="#">9</a> Exhibit I, # <a href="#">10</a> Exhibit J, # <a href="#">11</a> Exhibit K, # <a href="#">12</a> Exhibit L, # <a href="#">13</a> Exhibit M, # <a href="#">14</a> Exhibit N, # <a href="#">15</a> Exhibit O, # <a href="#">16</a> Exhibit P, # <a href="#">17</a> Exhibit Q) (Harman, Walker) (Entered: 02/18/2013)
02/19/2013	 <a href="#">61</a>	STIPULATION AND ORDER REGARDING LITIGATION STAY AND SETTLEMENT CONFERENCE: NOW THEREFORE IT IS STIPULATED AND AGREED AS FOLLOWS: 1. The targeted discovery shall be limited to: (a) Defendants shall respond to discovery as ordered by Magistrate Peck on February 14, 2013; (b) By March 6, 2013 Defendants shall produce to Plaintiffs payroll records for all waiters and bartenders employed by 44 & X from July 27, 2006 to present and a list of waiters and bartenders employed by 44 & X from July 27, 2006 to the present who do not appear on payroll records; and (c) By March 6, 2013 Plaintiffs shall produce all mitigation documents for Plaintiff Tyler Walz as detailed in Defendants' second deficiency letter to Plaintiffs, dated February 12, 2013. 2. All other discovery, including but not limited to depositions, is stayed until such time as the Parties attend a settlement conference before Magistrate Judge Peck. 3. Plaintiffs' Motion for Preliminary Class Action Certification Pursuant to Fed R. Civil P. 23 Regarding Fair Labor Standards Act and New York Labor Law Claims is stayed until such time as the Parties attend a settlement conference before Magistrate Judge Peck. 4. The statute of limitations for any other employment related claims the named Plaintiffs may have as against Defendants are tolled until the Parties conclude the settlement conference before Magistrate Judge Peck. 5. The Parties shall herewith request that the Court refer this matter to Magistrate Judge Peck and schedule a settlement conference on or about forty-five (45) days from the date of issuance of this Order. 6. In the event the Parties are successful in achieving a resolution of this matter, the Parties shall refer the settlement approval process to Magistrate Judge Peck. (Signed by Judge Colleen McMahon on 2/19/2013) (djc) Modified on 2/19/2013 (djc). (Entered: 02/19/2013)
02/20/2013	 <a href="#">62</a>	ORDER FOR SETTLEMENT CONFERENCE: Settlement Conference set for 4/3/2013 at 10:30 AM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck. Counsel attending the conference must have full settlement authority and their client(s) must be present at the conference, as must a representative of the client's insurance company where the decision to settle and/or amount of settlement must be approved by the insurance company. Counsel shall provide a confidential settlement memorandum to my chambers. The memorandum shall not be filed with the Clerk of the Court nor provided to opposing counsel. The memorandum should explain the factual and legal background of the case as it impacts on settlement negotiations; the status of prior settlement discussions between the parties; and the party's settlement proposal (range). See Order. (Signed by Magistrate Judge Andrew J. Peck on 2/20/2013) Copies Sent By ECF By Chambers. (cd) (Entered: 02/20/2013)

02/21/2013	 <a href="#">63</a>	ORDER RESCHEDULING SETTLEMENT CONFERENCE: 4/3/2013 Settlement Conference reset for 4/4/2013 at 10:30 AM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck. Counsel attending the conference must have full settlement authority and their client(s) must be present at the conference, as must a representative of the client's insurance company where the decision to settle and/or amount of settlement must be approved by the insurance company. (Signed by Magistrate Judge Andrew J. Peck on 2/21/2013) Copies Sent By ECF By Chambers. (cd) (Entered: 02/21/2013)
02/22/2013	 <a href="#">64</a>	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A.. Document filed by S. Reece Scelfo.(Harman, Walker) (Entered: 02/22/2013)
03/04/2013	 <a href="#">65</a>	TRANSCRIPT of Proceedings re: CONFERENCE held on 2/14/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Khristine Sellin, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 3/28/2013. Redacted Transcript Deadline set for 4/8/2013. Release of Transcript Restriction set for 6/6/2013.(Rodriguez, Somari) (Entered: 03/04/2013)
03/04/2013	 <a href="#">66</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 2/14/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 03/04/2013)
03/13/2013	 <a href="#">67</a>	ENDORSED LETTER: addressed to Magistrate Judge Andrew J. Peck from Joanna S. Smith dated 3/12/2013 re: Counsel for defendants write on behalf of both parties to request that the discovery conference scheduled for March 14, 2013 be adjourned. ENDORSEMENT: The 3/14 conference is cancelled. See you on 4/4. So Ordered. (Signed by Judge Colleen McMahon on 3/13/2013) (js) (Entered: 03/13/2013)
03/13/2013	 <a href="#">68</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 3/13/2013 re: Accordingly, Plaintiffs respectfully request a new sixty-day (60-day) opt-in period for those seventeen (17) individuals. The first opt-in period, for a mail delivery of the Notice, lasted sixty (60) days and Plaintiffs believe it would be unfair to have an opt-in period that is shorter for those newly identified individuals. Defendants advised Plaintiffs that they consented to such a request. ENDORSEMENT: APPROVED. All other deadlines remain unchanged. (Signed by Magistrate Judge Andrew J. Peck on 3/13/2013) (mt) (Entered: 03/13/2013)
03/14/2013	 <a href="#">69</a>	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A.. Document filed by John Garrie Hoffman.(Harman, Walker) (Entered: 03/14/2013)
03/27/2013	 <a href="#">70</a>	CONSENT TO BECOME PARTY PLAINTIFF UNDER THE F.L.S.A.. Document filed by Kameron Ackerman.(Harman, Walker) (Entered: 03/27/2013)
03/28/2013	 <a href="#">71</a>	ORDER: I hereby authorize the following attorney(s) to bring the General Purpose

		Computing Device(a) ("OPCD") listed below into the Courthouse for use in a trial or proceeding in the action entitled Walz et al. v. 44&X et al. No. 12-cv-5800 which is anticipated to begin on April 4, 2013 and conclude on April 4, 2013. Attorney Walker G. Harman Jr. authorized to bring (laptop computer). So Ordered (Signed by Magistrate Judge Andrew J. Peck on 3/27/2013) (js) Modified on 3/29/2013 (js). (Entered: 03/28/2013)
03/28/2013	 <a href="#">72</a>	ORDER: I hereby authorize the following attorney(s) to bring the General Purpose Computing Device(s) ("GPCD") listed below into the Courthouse for use in a trial or proceeding in the action entitled Walz et al v. 44&X et al No. 12 cv 5800, which is anticipated to begin on April 4, 2013 and conclude on April 4, 2013. Attorney Joanna S. Smith is authorized to bring in a laptop. (Signed by Magistrate Judge Andrew J. Peck on 3/28/2013) (js) Modified on 3/29/2013 (js). (Entered: 03/28/2013)
03/29/2013	 <a href="#">73</a>	ENDORSED LETTER: addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 3/28/2013 re: Counsel for Plaintiffs write pursuant to the Order entered by the Court on February 20, 2013, enclosed please find plaintiffs' Mediation Statement ahead of our settlement conference scheduled for April 4, 2013. A hard copy of this Mediation Statement will be delivered to Your Honor's Chambers tomorrow morning, with exhibits and attachments. Finally Counsel advises the Court and opposing Counsel that their client representative will be Tyler Walz, the lead-Plaintiff in this matter. ENDORSEMENT: 1. All of the named plaintiffs need to attend, not just Mr. Walz. 2. The parties seem extremely far apart- I suggest counsel speak to each other to see if it makes sense to postpone or even cancel the settlement conference. So Ordered. (Signed by Magistrate Judge Andrew J. Peck on 3/29/2013) Copies Sent By Chambers. (js) (Entered: 03/29/2013)
03/29/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Telephone Conference held on 3/29/2013. (Scheduling Conference set for 4/4/2013 at 10:30 AM before Magistrate Judge Andrew J. Peck. Status Conference set for 4/4/2013 at 10:30 AM before Magistrate Judge Andrew J. Peck.) (ft) (Entered: 04/08/2013)
04/02/2013	 <a href="#">74</a>	ORDER: The April 4, 2013 settlement conference is cancelled- the parties are too far apart. The conference will go forward as a status and scheduling conference- April 4, 2013 at 10:30 a.m. in Courtroom 20D. ( Status Conference set for 4/4/2013 at 10:30 AM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck.) (Signed by Magistrate Judge Andrew J. Peck on 4/2/2013) Copies Sent Via ECF By Chambers. (js) (Entered: 04/02/2013)
04/04/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Discovery Hearing held on 4/4/2013. Discovery disputes resolved, inc. setting of depo dates - see transcript. Defendant's opposition to plaintiffs' class cert. motion due 4/18. Status 4/30 at 2 PM. ( Status Conference set for 4/30/2013 at 02:00 PM before Magistrate Judge Andrew J. Peck.) ( Responses due by 4/18/2013). (ja) (Entered: 04/12/2013)
04/05/2013	 <a href="#">75</a>	ORDER REFERRING CASE TO MAGISTRATE JUDGE. Order that case be referred to the Clerk of Court for assignment to a Magistrate Judge for Specific Non-Dispositive Motion/Dispute. Motion to Amend, dkt #30. Motion to Certify Class, dkt #58. Referred to Magistrate Judge Andrew J. Peck. Motions referred to

		Andrew J. Peck. (Signed by Judge Colleen McMahon on 4/5/2013) (cd) (Entered: 04/05/2013)
04/05/2013	 <a href="#">76</a>	ENDORSED LETTER addressed to Judge Colleen McMahon from Felice B. Ekelman dated 4/4/2013 re: Request for the following briefing schedule. ENDORSEMENT: OK- since you arranged the schedule w/ Judge Peck I will refer the motion to him. Set Deadlines/Hearing as to <a href="#">58</a> MOTION to Certify Class. ( Responses due by 4/18/2013, Replies due by 4/29/2013.) (Signed by Judge Colleen McMahon on 4/5/2013) (cd) (Entered: 04/05/2013)
04/08/2013	 <a href="#">77</a>	ENDORSED LETTER: addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 4/8/2013 re: Counsel for Plaintiffs. ENDORSEMENT: The Court will address plaintiffs' request regarding the work-product materials at the conference being scheduled for later this week. In the meantime, plaintiffs are to return the non-work-product, original information to defendants. So Ordered. (Signed by Magistrate Judge Andrew J. Peck on 4/8/2013) (js) (Entered: 04/09/2013)
04/09/2013	 <a href="#">78</a>	ORDER SCHEDULING DISCOVERY CONFERENCE: IT IS HEREBY ORDERED that a conference is scheduled for April 11, 2013 at 9:00 a.m. before the undersigned in Courtroom 20D (500 Pearl Street). ( Status Conference set for 4/11/2013 at 09:00 AM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck.) (Signed by Magistrate Judge Andrew J. Peck on 4/9/2013) Copies Sent Via ECF By Chambers. (js) (Entered: 04/09/2013)
04/11/2013		Minute Entry for proceedings held before Magistrate Judge Andrew J. Peck: Discovery Hearing held on 4/11/2013. Issues re plaintiffs counsel's contacting employees by Facebook, etc. resolved - see transcript. Motion to amend (Dkt. No. 30) granted in part but denied as to retaliation claim by Plaintiff's other than Walz. The proposed 5th c/a is struck and 2nd c/a is limited to Walz retaliation claim against Hart and 44&X, but not Defendants Horowitz. Parties to contact if disputes or re settlement. (ft) (Entered: 05/01/2013)
04/18/2013	 <a href="#">79</a>	TRANSCRIPT of Proceedings re: CONFERENCE held on 4/4/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Samuel Mauro, (212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/13/2013. Redacted Transcript Deadline set for 5/23/2013. Release of Transcript Restriction set for 7/22/2013.(Rodriguez, Somari) (Entered: 04/18/2013)
04/18/2013	 <a href="#">80</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 4/4/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 04/18/2013)
04/18/2013	 <a href="#">81</a>	TRANSCRIPT of Proceedings re: CONFERENCE held on 4/11/2013 before Magistrate Judge Andrew J. Peck. Court Reporter/Transcriber: Jerry Harrison,

		(212) 805-0300. Transcript may be viewed at the court public terminal or purchased through the Court Reporter/Transcriber before the deadline for Release of Transcript Restriction. After that date it may be obtained through PACER. Redaction Request due 5/13/2013. Redacted Transcript Deadline set for 5/23/2013. Release of Transcript Restriction set for 7/22/2013.(Rodriguez, Somari) (Entered: 04/18/2013)
04/18/2013	 <a href="#">82</a>	NOTICE OF FILING OF OFFICIAL TRANSCRIPT Notice is hereby given that an official transcript of a CONFERENCE proceeding held on 4/11/13 has been filed by the court reporter/transcriber in the above-captioned matter. The parties have seven (7) calendar days to file with the court a Notice of Intent to Request Redaction of this transcript. If no such Notice is filed, the transcript may be made remotely electronically available to the public without redaction after 90 calendar days...(Rodriguez, Somari) (Entered: 04/18/2013)
04/18/2013	 <a href="#">83</a>	MEMORANDUM OF LAW in Opposition re: <a href="#">58</a> MOTION to Certify Class.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Ekelman, Felice) (Entered: 04/18/2013)
04/18/2013	 <a href="#">84</a>	DECLARATION of Felice B. Ekelman in Opposition re: <a href="#">58</a> MOTION to Certify Class.. Document filed by 44& X incorporated as 10th Avenue Group Inc., Scott Hart, Bruce Horowytz. (Attachments: # <a href="#">1</a> Exhibit A, # <a href="#">2</a> Exhibit B, # <a href="#">3</a> Exhibit C, # <a href="#">4</a> Exhibit D, # <a href="#">5</a> Exhibit E, # <a href="#">6</a> Exhibit F, # <a href="#">7</a> Exhibit G, # <a href="#">8</a> Exhibit H, # <a href="#">9</a> Exhibit I, # <a href="#">10</a> Exhibit J)(Ekelman, Felice) (Entered: 04/18/2013)
04/29/2013	 <a href="#">85</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 4/28/2013 re: I am writing today because Plaintiffs' Reply Memorandum In Further Support of Their Motion for Preliminary Class Action Certification is currently due on Monday, April 29, 2013. Plaintiffs respectfully request a brief extension of one week to file their reply. ENDORSEMENT: Extension to 5/6 approved. Further extensions are unlikely., ( Replies due by 5/6/2013.) (Signed by Magistrate Judge Andrew J. Peck on 4/29/2013) (lmb) (Entered: 04/29/2013)
05/09/2013	 <a href="#">86</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 5/8/2013 re: At this time, Plaintiffs respectfully request an in-person conference with the Court to review the terms of the settlement in principle. ENDORSEMENT: A conference is scheduled for May 15, 2013 at 9:30 AM in Courtroom 20D., ( Status Conference set for 5/15/2013 at 09:30 AM in Courtroom 20D, 500 Pearl Street, New York, NY 10007 before Magistrate Judge Andrew J. Peck.) (Signed by Magistrate Judge Andrew J. Peck on 5/9/2013) (lmb) (Entered: 05/09/2013)
05/10/2013	 <a href="#">87</a>	ORDER: It having been reported to this Court that the above entitled action has been settled, IT IS ORDERED that the action be, and the same hereby is, discontinued with prejudice but without costs; provided, however, that if the settlement is not consummated within thirty (30) days of the date of this order, either party may apply by letter for restoration of the action to the calendar of the undersigned. Any such application must be made before the thirty (30) days have expired, or it will be denied. Any such application timely made will be granted. (Signed by Judge Colleen McMahon on 5/10/2013) (cd) (Entered: 05/10/2013)
05/13/2013		MEMORANDUM TO THE DOCKET CLERK: The order entered on 5/10/13 is

		stricken from the docket. The Clerk is directed to re-open the case. (Submitted by MD). (mde) . (Entered: 05/13/2013)
05/13/2013	 <a href="#">88</a>	ORDER CANCELING CONFERENCE: IT IS HEREBY ORDERED that the conference previously scheduled for Wednesday, May 15, 2013 at 9:30 a.m. before Magistrate Judge Andrew J. Peck is CANCELED. SO ORDERED. (Signed by Magistrate Judge Andrew J. Peck on 5/13/2013) (rsh) (Entered: 05/13/2013)
05/15/2013	 <a href="#">89</a>	ORDER: The parties are to file the settlement agreement and whatever papers are needed for Judge McMahon to approve the settlement by no later than June 7. 2013. SO ORDERED. (Signed by Magistrate Judge Andrew J. Peck on 5/15/2013) Copies by ECF. (rdz) (Entered: 05/15/2013)
06/06/2013	 <a href="#">90</a>	NOTICE, CONSENT, AND REFERENCE OF CIVIL ACTION TO MAGISTRATE JUDGE PECK by 44&X incorporated as 10th Avenue Group Inc., Kameron Ackerman, Forrest Bayless, Marcus Calderon, Scott Hart, John Garrie Hoffman, Bruce Horowytz, Daniel a/k/a Danny Marr, S. Reece Scelfo, Stephen Stacey, Tyler Walz. (Case No Longer Referred to Magistrate Judge) CASE ASSIGNED to Magistrate Judge Andrew J. Peck. (Signed by Judge Colleen McMahon on 6/6/2013) (cd) (Entered: 06/06/2013)
06/06/2013	 <a href="#">91</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Felice B. Ekelman dated 5/7/2013 re: We write to respectfully request that the court dismiss with prejudice Plaintiff Forrest Bayless, for failure to respond to Defendants' discovery request and failure to comply with the Court's April 4, 2013 Order. ENDORSEMENT: The claims of plaintiff Forrest Bayless are DISMISSED with prejudice., Forrest Bayless terminated. (Signed by Magistrate Judge Andrew J. Peck on 6/6/2013) (lmb) (Entered: 06/06/2013)
06/07/2013	 <a href="#">92</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 6/6/2013 re: As the parties are actively attempting to finalize the language in the agreement, Plaintiffs respectfully request that the Parties be granted seven (7) additional days for submission, i.e. until next Friday, June 14, 2013. ENDORSEMENT: Approved. (Signed by Magistrate Judge Andrew J. Peck on 6/7/2013) (lmb) (Entered: 06/07/2013)
06/14/2013	 <a href="#">93</a>	ENDORSED LETTER addressed to Magistrate Judge Andrew J. Peck from Peter J. Andrews dated 6/14/2013 re: I am writing today because currently all papers in support of the written settlement are due today, Friday, June 14, 2013. We therefore kindly request a very short extension of time to submit these documents to the Court. We request that we submit these items to the Court by Friday, June 21, 2013. ENDORSEMENT: Extension granted only to 6/20. (Signed by Magistrate Judge Andrew J. Peck on 6/14/2013) (lmb) (Entered: 06/14/2013)

<b>PACER Service Center</b>			
<b>Transaction Receipt</b>			
06/20/2013 19:12:28			
<b>PACER Login:</b>	wh1354	<b>Client Code:</b>	44 X

Description:	Docket Report	Search Criteria:	1:12-cv-05800-AJP
Billable Pages:	15	Cost:	1.50